UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, : 17-CV-139 (GHW)

: ECF Case

Plaintiff,

: NOTICE OF

-against- : PLAINTIFF'S FIRST

OMNIBUS MOTION

IN LIMINE

GREGORY T. DEAN and DONALD J. FOWLER,

:

Defendants.

PLEASE TAKE NOTICE that Plaintiff Securities and Exchange Commission ("SEC") hereby respectfully moves this court pursuant to Federal Rules of Evidence 401, 402, and 403 to enter an order to preclude Defendants Gregory T. Dean and Donald J. Fowler from offering at trial evidence or argument regarding: (1) customer sophistication, including but not limited to (a) brokerage account records at brokers other than J.D. Nicholas; (b) records of irrelevant J.D. Nicholas accounts; and (c) tax returns; (2) boilerplate disclosures, including but not limited to (a) intent to maintain account letters; (b) letters regarding day-trading risks; (c) letters from J.D. Nicholas supervisors about account activity; and (d) trade confirmations; and (3) internal SEC emails or communications between counsel for the parties. In support of its motion, the SEC relies upon the supporting Memorandum of Law and the declaration of Kristin M. Pauley dated April 1, 2019, and exhibits A through Q thereto, all filed herewith.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's Individual Practices, responsive papers, if any, should be filed with the court no later than April 8, 2019.

PLEASE TAKE FURTHER NOTICE that a date and time for oral arguments on this matter will be set by the Court unless the Court deems it unnecessary to hold a hearing, in which case the Court may grant the SEC's application without any further notice or hearing.

Dated: April 1, 2019

New York, New York

Respectfully submitted,

Jorge G. Tenreiro David Stoelting Kristin M. Pauley

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